IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6660 OF 2007

Aziz Amir Sherkhan ....Petitioner
V/s
Thane Municipal Corporation & Anr... ....Respondents.

Mr.R.S.Datar, Adv. For the petitioner.

Mr.R.S.Apte, Adv. For respondent Nos. 1 & 2.

CORAM: A.P.DESHPANDE, J.
10/9/07

PC:

By the present petition exception is taken to an order passed by the District Judge, Thane dismissing an appeal preferred by the present petitioner calling in question the legality and validity of an order passed by the Deputy Municipal Commissioner, Thane under section 81B of the Bombay Provincial Municipal Corporation Act, 1949 which directs eviction of the petitioner from the suit premises. The father of the present petitioner was Corporation employee and it is the case of the respondent-corporation that the petitioner's father was allotted a quarter to reside. After the death of petitioner's father he continues to reside in the said quarter. The petitioner did file a suit bearing No.1299/95 contending that the petitioner's father had encroached on plot of land owned by the Corporation and carried out an unauthorized structure on the said plot of land. A plea that the petitioner has become owner of the property by adverse possession was set up in the suit which suit has been dismissed and I am informed that the second appeal filed in the said case has also been dismissed. It is thus obvious from the very plea of adverse possession that the petitioner admits the ownership of the Corporation

and thus the Corporation was justified in taking recourse under section 81B of the Act. Learned counsel for the petitioner submits that the Corporation did not lead any evidence to establish its ownership. The very fact that the petitioner himself had filed a suit against the Corporation based on adverse possession clearly implies the title of property being that of the Corporation. Perused the Order. Same does not call for any interference. Hence writ petition is summarily dismissed.
10.9.07